

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-0030V

UNPUBLISHED

SHAWN MCKENNA,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: October 24, 2022

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Influenza (Flu) Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA)

David John Carney, Green & Schafle LLC, Philadelphia, PA, for Petitioner.

Amanda Pasciuto, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On January 4, 2021, Shawn McKenna filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that he suffered a shoulder injury related to vaccine administration (“SIRVA”), a defined Table injury, after receiving the influenza (“flu”) vaccine he received on December 24, 2019. Petition at 1, ¶¶ 3, 15. Petitioner further alleges he received the vaccine within the United States, that he continues to suffer the residual effects of his injury more than six months post-vaccination, and that neither he nor any other party has filed a civil action or received compensation for his injury. Petition at ¶¶ 3, 16-17. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On October 21, 2022, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 6. Specifically, Respondent believes that "[P]etitioner has satisfied the criteria set forth in the Vaccine Injury Table ("Table") and the Qualifications and Aids to Interpretation ("QAI") for SIRVA." *Id.* Regarding Petitioner's prior left shoulder pain, he notes that Petitioner had been pain free for two and a half years and states that he "do[es] not consider [P]etitioner's pre-vaccination left shoulder complaints to be an adequate explanation for his alleged symptoms and examination findings following his flu vaccine." *Id.* at 7 n.10. Respondent further agrees that "[P]etitioner has satisfied all legal prerequisites for compensation under the Act." *Id.* at 7.

In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master